

Remarks

Prompt and thorough reconsideration of the application is respectfully requested.

The newly submitted Figure 11 is believed to obviate the examiner's objections.

Applicant again traverses and requests reconsideration of the rejections of the claims as being unpatentably obvious under 35 USC 103 on the basis of Wessman, U.S. 6,409,708 in view of Loo, U.S. 5,041,087, and on the basis of Wessman in view of Loo and further in view of Yokoyama, U.S. 3,662,752., and further on the basis of Wessman in view of Loo and yet further in view of Thompson, U.S. 4,623,343., and still further on the basis of Wessman in view of Loo and yet further in view of Raines, U.S. 4,687,473.

Applicant has amended the claims to distinguish over the various combinations of cited references, by adding language emphasizing the venting function of the relevant portion of the apparatus. Applicant submits that when the claims are considered in light of these amendments, the examiner will find that the claims in their amended form are patentably and unobviously distinguishable over the prior art. Notification of the same is expressly solicited.

Respecting the examiner's reliance on the basis of Wessman and the examiner's assertion that Wessman essentially discloses the applicant's claims, applicant respectfully directs the examiner's attention to the drawings of this application and particularly to the outlet hole 46 for the secondary tubular passageway portion of applicant's device. As illustrated in Figure 6, the outlet holes, that are shown in more detail as item 46 in the earlier drawing figures, facilitate the mixing of fluids within the vessel 2 prior to discharge of those fluids from the vessel. Careful inspection of the

drawing figures, notably Figure 4, shows that the outlet hole 46 is "oval in shape", and "is proximate to but removed from the distal end" of member 40 and therefore "faces transversely or substantially transversely as respecting the axis of the second delivery conduit", as recited in the claims. The examiner's attention is further directed to the fact that the oval hole 46 is surrounded by wall of the second conduit. The oval hole is not merely formed by slicing the conduit at an angle as is the case is Wessman. The result produced with applicant's configuration is that the second fluid exiting from the secondary passageway through oval hole 46 exits from that passageway in a direction that is much more transverse to the axis of the second passageway than with the construction of which Wessman is exemplary. Applicant's claims have been amended to emphasize this distinction.

Claim 10 recites a main channel provider with two inlets. Applicant respectfully submits that the giving set cap of the invention, as illustrated in Figure 6, is provided with two main channel inlets. Accordingly, applicant respectfully submits that the examiner's objection to the drawing based on lack of showing of two main channel inlets, is not well founded and should be withdrawn.

Further regarding the drawings, claim 11 recites a main channel provided with three inlets. Applicant has enclosed an additional Figure 11 showing a giving cap having three main channel inlets. Applicant respectfully submits that when the examiner examines the enclosed Figure 11 in response to the examiner's objections in relation to claim 11, the examiner will reconsider and withdraw the objection to claim 11 since there is now a drawing in the application illustrating three inlets.

In rejecting claims 1 through 3, 5 through 7, 9 through 13, 16, 21, 22, 24, 26 and 33 as allegedly being unpatentably obvious in view of Wessman, United States patent 6,409,708 when considered in view of Loo, United States patent 5,041,087, as respecting claims 1 and 26, Wessman discloses a giving set cap 10 providing fluid communication between a vessel 20 and a chamber 12. Wessman's cap comprises a main channel 13 for fluid delivery and a subsidiary channel 14 for fluid delivery. Wessman's cap further includes inlet/outlet openings at the top of each channel. However, Wessman is silent in relation to the spacing of the inlet and outlet openings to allow sufficient mixing as recited and claimed in the instant application. Moreover, Wessman does not disclose the particular configuration of the outlet of the secondary channel as recited above and as claimed in applicant's claims, that facilitates the mixing. To the contrary, Wessman discloses a sheer cutoff opening, which will do little if anything to facilitate lateral mixing of fluid emanating from the opening. In fact, Wessman implicitly admits this where, in column 2, line 23, Wessman states that after the injector needle is withdrawn through both membranes so that the injector can be demounted. *"The infusion can now be started after mixing the contents of the bag."* This is an implicit admission by Wessman that application of external forces to provide the mixing is required. In other words, *there is no mixing inherently resulting from use of Wessman's device*. This is contrary to the structure provided by applicant's invention as originally disclosed and as now claimed. Applicant respectfully submits that this point, if nothing more, patentably distinguishes applicant's invention and claims over the prior art of record.

The examiner has conceded that Wessman fails to disclose that the subsidiary inlet 16 is adapted to receive a needleless syringe. The examiner asserts that a subsidiary inlet adapted to receive a needleless syringe is disclosed in prior art U.S. patent 5,041,087. From this the examiner argues that it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the needleless connector disclosed in the '087 patent to the connector disclosed by Wessman in order to prevent accidental needle sticks.

Applicant requests that the examiner reconsider his position on this issue. Applicant respectfully notes that the inlet of the subsidiary channel according to claims 1 and 26 of the instant application is *disposed on the giving set cap for delivering different material to the first or second vessel such that the fluid or material is mixed within the first vessel prior to it leaving the inlet of the main channel*. The mixing is discussed thoroughly above as is the structure of applicant's invention facilitating such mixing.

As mentioned in paragraph 14 of the application, it is an important and advantageous feature of the giving set cap embodying the instant invention, that the different materials are mixed within the first vessel prior to delivery of the mixed fluid or materials into the second vessel.

Applicant submits that combining the teaches of Wessman, U.S. patent 6,409,708 and the teachings of Loo, U.S. patent 5,041,087 would merely provide a giving set cap as disclosed in Wessman together with a fluid injector for injecting fluid into the intravenous line downstream of the first vessel. In other words, the second fluid would be injected directly into the second vessel. Accordingly, the combination of the two cited references would result in the material being mixed in an already drip fed fluid

and would not therefore overcome the problem to which the present application is directed and which the present application solves.

Accordingly, applicant respectfully submits that claims 1 and 26 of the present application as amended, are both novel and inventive over the cited references whether taken alone or in combination. The remaining claims, 2 through 25, 33 and the new claims are either dependent on claim 1 and are therefore more limited and hence patentable on the basis of claim 1, or recite the limitations of claim 1 that are discussed above that distinguish claim 1 over Wessman and all of the other references cited by the examiner.

Applicant respectfully submits that in light of the foregoing, it is clear that applicant has made a novel, non-obvious, inventive contribution to the art. Applicant's invention, when manifest in physical form and used, will surely result in a very, very substantial reduction in needle sticks by healthcare personnel administering life saving drugs to hospital and other bedridden patients. This being the case, applicant respectfully submits that applicant has made a non-obvious patentable advance over the prior art that merits the issuance of a United States patent. Notification of the allowability of the application is respectfully solicited.

To the extent there is any fee required in connection with the receipt, acceptance and/or consideration of this paper and/or any accompanying papers submitted herewith, including any fee for any extension of time for responding to the outstanding official action, please charge all such fees to Deposit Account 50-1943.



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DATE: April 4, 2008

